

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DATE FILED: 12/20/2021

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Ema Financial, LLC,

Plaintiff,

-against-

Vystar Corp.,

Defendant.
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1:19-cv-1545 (ALC) (GWG)

ORDER TO RESPOND

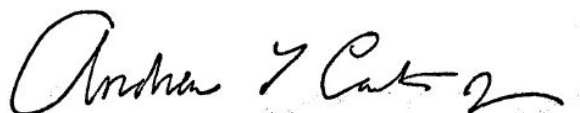
ANDREW L. CARTER, JR., United States District Judge:

The Court is in receipt of Defendant-Counterclaimant Vystar Corp.'s notice of withdrawal of its first counterclaim for misrepresentation and manipulation under Section 10(b) and Rule 10(B)-5 of the Securities & Exchange Act of 1934. ECF No. 165. Under Rule 41(c)(1) of the Federal Rules of Civil Procedure, voluntary dismissal of a counterclaim must be made before a responsive pleading is served or if there is no responsive pleading, before evidence is introduced at a hearing or trial. This counterclaim already survived dismissal following Plaintiff-Counterdefendant Ema Financial's motion to dismiss. ECF No. 116. Plaintiff then filed an answer to the counterclaim. ECF No. 129. To date, Plaintiff has stated no position on the intended withdrawal.

Accordingly, Plaintiff-Counterdefendant is hereby **ORDERED** to respond to Defendant-Counterclaimant's notice of withdrawal as to the above-referenced counterclaim no later than **December 22, 2021**. If Plaintiff consents to withdrawal, the parties shall file a proposed stipulation of dismissal of the counterclaim with the Court by that date.

SO ORDERED.

Dated: Dec. 20, 2021
New York, New York



ANDREW L. CARTER, JR.
United States District Judge